

TENNESSEE GENERAL ASSEMBLY
FISCAL REVIEW COMMITTEE



FISCAL NOTE

HB 580 - SB 932

March 29, 2017

SUMMARY OF BILL: Creates the *Tennessee Firefighter Cancer Act* (Act) for the purpose of establishing a rebuttable presumption that a firefighter's cancer that causes a disabling health condition is a result of the firefighter's duties, if the firefighter has been exposed to heat, smoke, and fumes or carcinogenic, poisonous, toxic, or chemical substances while performing the duties of a firefighter, has completed five or more years in classified service, and is subsequently unable to perform the regular duties of a firefighter because of the cancer. Establishes that such presumption is rebuttable by preponderance of the evidence that the cancer was not caused by the firefighter's duties. Entitles a firefighter, who is diagnosed with cancer, and such firefighter's surviving estate to all rights and benefits as granted by law to which one suffering an occupational injury is entitled as service connected in the line of duty. Defines "firefighter" as any full-time, paid employee of a fire department of the state or a political subdivision of the state.

Establishes that if the rebuttable presumption is applied, the firefighter is authorized to receive the benefit of the presumption for a period of four months for each full year of classified service, but is limited to a maximum of 120 months following the termination.

Authorizes an employer to require a firefighter to submit to pre-employment and annual medical examinations which screen for cancer. If such requirement exists, the employer is required to pay for such examinations. If a firefighter does not submit to the examinations required of the employer, such firefighter is not entitled to the rebuttable presumption created by this Act.

ESTIMATED FISCAL IMPACT:

Increase State Expenditures – \$75,000

Increase Local Expenditures – Exceeds \$1,000,000*

Assumptions:

- Pursuant to Tenn. Code Ann. § 7-51-201(b)(1), a presumption currently exists that any impairment of health by full-time firefighters employed by the state or any political subdivision, caused by disease of the lungs, hypertension or heart disease resulting in hospitalization, medical treatment or any disability, shall be presumed, unless the contrary is shown by competent medical evidence, to have occurred or to be due to accidental injury suffered in the course of employment. Any such condition or impairment of health which results in death shall be presumed, unless the contrary is

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shown by competent medical evidence, to be a loss of life in line of duty, and to have been in the line and course of employment, and in the actual discharge of the duties of such firefighter's position, or the sustaining of personal injuries by external and violent means or by accident in the course of employment and in the line of duty. Such firefighter shall have successfully passed a physical examination prior to such claimed disability, or upon entering upon governmental employment, and such examination fails to reveal any evidence of the condition or disease of the lungs, hypertension or heart disease.

- This legislation would broaden the applicability of this rebuttable presumption and provide means for the firefighter to claim any benefits offered by the respective political subdivision.
- Public Chapter 465 of the Public Acts of 1991 established a rebuttable assumption similar to the presumption established by this Act; however, such law applied exclusively to firefighters employed by the Metropolitan Government of Nashville-Davidson County.
- The Nashville Fire Department (NFD) employs approximately 1,170 full-time firefighters.
- According to NFD, this rebuttable presumption has been applied in approximately 114 cases over the past ten years, for an average of 11.4 per year.
- On average, approximately 0.9 percent (11.4 / 1,170) of firefighters employed by the NFD contract cancer.
- Based on information provided by the State Fire Marshal's Office (SFM), there are approximately 7,242 full-time firefighters in Tennessee, to which this Act will apply.
- Assuming the rate of cancer in Nashville is representative to all other areas of the state, approximately 65 (7,242 x 0.9%) full-time firefighters in the state contract cancer annually.
- If the cancer is judged to be contracted in the line-of-duty by way of this rebuttable presumption, and the firefighter subsequently dies of the cancer, the estate of the firefighter will be entitled to receive the death benefit of \$25,000, pursuant to Tenn. Code Ann. § 7-51-206.
- Currently, death benefits are provided to the estates of firefighters, volunteer rescue squad workers, and law enforcement personnel who are killed in the line of duty.
- The current state budget includes recurring death benefit amounts for two firefighters. Currently, any unused funding reverts back to the General Fund at the end of each fiscal year.
- According to the SFM, on average, one firefighter death benefit is awarded per year.
- It is unknown how many firefighters will perish due to cancer that, due to the rebuttable presumption created by this Act, is presumed to have been contracted in the line-of-duty.
- This Act will apply to approximately 54 (65 - 11) firefighters.
- It is assumed that five percent, or 3 (54 x 5.0%) additional estates of firefighters, will claim the state death benefit per year, resulting in a recurring increase in state expenditures of \$75,000 (3 x \$25,000).
- The medical examination required of this part is assumed to have no significant cost to state or local governments, as medical exams are generally required of firefighters; therefore, this will impose no additional requirement of firefighters.

- This Act is expected to result in a mandatory increase in local expenditures for additional benefits provided to firefighters who are presumed to have contracted cancer in the line-of-duty; however, due to various unknown factors, including, but not limited to, the benefits provided by each political subdivision of the state, an exact impact to local governments cannot be determined with any certainty.
- It is reasonably estimated to exceed \$1,000,000 statewide for all firefighters.

**Article II, Section 24 of the Tennessee Constitution provides that: no law of general application shall impose increased expenditure requirements on cities or counties unless the General Assembly shall provide that the state share in the cost.*

IMPACT TO COMMERCE:

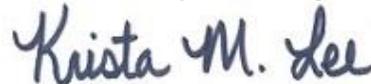
NOT SIGNIFICANT

Assumption:

- This legislation is estimated to have no significant impact on private businesses or commerce in Tennessee.

CERTIFICATION:

The information contained herein is true and correct to the best of my knowledge.



Krista M. Lee, Executive Director

/jdb